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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

Report of the Working Group on the Declaration on the protection of all persons from enforced disappearance

Chairman-Rapporteur: Mrs. B. le Fraper du Hellen (France)

INTRODUCTION

1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, at its forty-second session held in 1990, adopted in resolution 1990/33 of 31 August 1990 the draft declaration on the protection of all persons from enforced or involuntary disappearances (E/CN.4/Sub.2/1990/32, annex I). By this resolution, the Sub-Commission transmitted the draft declaration to the Commission on Human Rights for its consideration, with a recommendation that it be endorsed and transmitted to the Economic and Social Council and the General Assembly for final adoption.

2. The Commission on Human Rights, at its forty-seventh session held in 1991, decided, by its resolution 1991/41 of 5 March 1991, to establish an open-ended working group which would meet prior to the forty-eighth session of the Commission to consider the draft declaration submitted by the

Sub-Commission, with a view to its adoption by the Commission at its forty-eighth session. It invited all Governments, the intergovernmental agencies and the non-governmental agencies to participate in the activities of the working group. It also requested the working group to meet for a period of two weeks before the forty-eighth session of the Commission.

3. The Economic and Social Council, by its resolution 1991/27 of 31 May 1991, authorized an open-ended working group to meet for a period of two weeks prior to the forty-eighth session of the Commission on Human Rights.

4. Consequently, the Working Group held 20 meetings, from 28 October to 8 November 1991 and on 29 January 1992. The session was opened on 28 October 1991 by Mr. Hamid Gaham, the representative of the Under-Secretary-General for Human Rights, who made an introductory statement. The following sections of this report deal with the Working Group's consideration of the draft declaration.

ELECTION OF OFFICERS

5. At its 1st meeting, on 28 October 1991, the Working Group elected Mrs. Beatrice le Fraper du Hellen (France) as Chairman-Rapporteur.

ATTENDANCE

6. The representatives of the following States, members of the Commission on Human Rights, attended the meetings of the Working Group, which were open to all members of the Commission: Argentina, Australia, Austria, Belgium, Brazil, Canada, China, Cuba, Cyprus, Ethiopia, France, Germany, Hungary, India, Italy, Japan, Mexico, Morocco, Peru, Philippines, Senegal, Sweden, Union of Soviet Socialist Republics, United States of America.

7. The following States, non-members of the Commission on Human Rights, were represented by observers at the meetings of the Working Group: Algeria, Bulgaria, Chile, Ecuador, Egypt, El Salvador, Greece, Lebanon, Netherlands, New Zealand, Nicaragua, Norway, Sudan, Turkey and the United Kingdom of Great Britain and Northern Ireland.

8. Switzerland, which is not a member of the United Nations, was represented by an observer.

9. Palestine, a national liberation movement, was also represented by an observer.

10. The following non-governmental organizations, in consultative status with the Economic and Social Council, were represented by observers at the meetings of the Working Group: American Association of Jurists, Amnesty International, Arab Organization for Human Rights, Friends World Committee for Consultation, International Commission of Jurists, International Federation of Human Rights, International Institute of Humanitarian Law, International League for Human Rights, International Service for Human Rights, Latin American Federation of Associations of Relatives of Disappeared Detainees, Law Association for Asia and the Western Pacific, World Assembly of Youth.

DOCUMENTATION

11. The Working Group had before it the following documents:

E/CN.4/1991/WG.10/L.1	Provisional agenda
E/CN.4/Sub.2/1990/32	Report of the Sub-Commission Working Group on Detention containing the draft declaration on the protection of all persons from enforced or involuntary disappearances
E/CN.4/1991/WG.10/WP.1	Working Paper submitted by the Secretariat pursuant to Commission on Human Rights resolution 1991/41
E/CN.4/1991/WG.10/WP.2	Information and comments submitted by Tunisia, the United Arab Emirates and the NGO Coalition against Impunity
E/CN.4/1991/WG.10/WP.3	Information and comments submitted by Germany
E/CN.4/1991/WG.10/WP.4	Information and comments submitted by the International Federation of Human Rights
E/CN.4/1991/WG.10/WP.5	Information and comments submitted by the International League for Human Rights
E/CN.4/1991/WG.10/WP.6	Information and comments submitted by the International Commission of Jurists
E/CN.4/Sub.2/1991/26	Consolidated list, prepared by the Secretary-General of provisions in the various United Nations standards relating to human rights in the administration of justice

ORGANIZATION OF WORK

12. The Working Group adopted its agenda, as it appears in document E/CN.4/1991/WG.10/L.1, at its 1st meeting on 28 October 1991.

13. The Chairman-Rapporteur made an opening statement, referring to the work carried out to date by the Sub-Commission on Prevention of Discrimination and Protection of Minorities as well as to the experience of the five experts of the Commission Working Group on Enforced or Involuntary Disappearances. She made a proposal, which was approved by the Working Group, that the draft submitted by the Sub-Commission should constitute the basis and frame of reference for the Group's deliberations. She invited the Group to make every effort to complete its consideration of the draft declaration as from that meeting in accordance with the mandate assigned to it by Commission on Human Rights resolution 1991/41 of 5 March 1991.

14. Consequently, the Group decided to give the draft submitted by the Sub-Commission its first reading, paragraph by paragraph and article by article, amending and revising its provisions as necessary. The Chairman-Rapporteur stressed, in the light of the written and oral comments made by delegations, that the form of the draft should be improved and that its layout should resemble that of a declaration. One delegation agreed to make proposals along those lines, concurrently with the substantive consideration of each provision. Throughout its deliberations, the Working Group was at pains to maintain coherence in the way each provision was formulated; with the assistance of the Secretariat, it verified that the language of the draft was compatible with the terminology of other relevant international instruments.

15. The Working Group agreed that the wisest procedure would be to consider the question of the title of the draft declaration as well as the question of a possible definition or description of enforced or involuntary disappearances at a later stage.

16. It was also decided that, when the Working Group had completed its first reading of the draft in its entirety, a second reading of the text would be undertaken with a view to its final adoption by the Working Group.

CONSIDERATION AND FORMULATION OF PARAGRAPHS AND ARTICLES

17. In view of the decisions thus taken concerning its methods of work, the Group started on its consideration and revision of the draft declaration submitted by the Sub-Commission (E/CN.4/Sub.2/1990/32). The comments and suggestions of Governments and non-governmental organizations appearing in documents E/CN.4/1991/WG.10/WP.1 to 6, were available to it.

18. At its 1st and 2nd meetings, on 28 October 1991, the Working Group considered and adopted the first, third, fifth, sixth, seventh, ninth and eleventh preambular paragraphs and amended the eighth paragraph. The second paragraph was deleted. At its 3rd and 4th meetings, on 29 October 1991, the Working Group considered and adopted the revised version of the thirteenth and fourteenth preambular paragraphs. 1/

19. The fourth paragraph, describing what constitutes an enforced or involuntary disappearance, was considered at the 1st and 2nd meetings of the Working Group, on 28 October 1991, and at its 7th and 8th meetings, on 31 October 1991. Some participants considered that "acts of enforced or involuntary disappearance" should be defined since these acts were described elsewhere as crimes of the gravest kind.

1/ The numbered articles and paragraphs to which reference is made, here and elsewhere, correspond to the articles and paragraphs of the text of the Sub-Commission (E/CN.4/Sub.2/1990/32, Annex).

20. However, most of the participants considered that, for a declaration, it was not necessary to include in the text a definition in due form. They considered, however, that the description appearing in the fourth preambular paragraph was adequate and appropriate, subject to a number of improvements and additions proposed by two delegations. Having accepted these suggestions, the Working Group finally decided by consensus to include a description in the draft declaration of acts of enforced or involuntary disappearance. It therefore adopted a revised version of the fourth preambular paragraph which became the third preambular paragraph in the final draft.

21. The representative of the United Kingdom of Great Britain and Northern Ireland stated that his delegation interpreted the third preambular paragraph of the final draft as being in no way incompatible with the legislation of the United Kingdom, under which the authorities may hold incommunicado persons suspected of serious criminal offences or terrorist crimes for short periods after their arrest.

22. When this question was considered, the representative of Turkey suggested that the text should make provision for measures against terrorist acts of abduction committed by individuals or groups of individuals acting on their own behalf and, stressing the indivisibility of human rights, proposed two new preambular paragraphs along those lines, referring to General Assembly resolution 40/61 and articles 29 and 30 of the Universal Declaration of Human Rights. A number of participants pointed out that terrorist activities were without any doubt a considerable source of concern to the United Nation and that States should cooperate to bring them to an end, but they did not come within the scope of the draft under consideration. This, in conformity with the mandate given to the Working Group by resolution 1991/41, related to acts committed, authorized or tolerated by State officials and lays down the obligations of States in this regard. It was therefore agreed not to include the proposed paragraphs in the draft declaration. The delegation of Turkey expressed its reservations.

23. At its 13th meeting, after considering the draft in its entirety, the Working Group adopted the ninth preambular paragraph, as amended, and the eleventh preambular paragraph whose language has been brought into line with the operative part.

24. From its 3rd to its 18th meeting, from 29 October to 8 November 1991, the Working Group considered and adopted the articles corresponding to articles 1 to 22 of the Sub-Commission's draft.

25. At its 3rd meeting, on 29 October 1991, it amended the wording of articles 1 and 2. In order to simplify consultations among participants, the Chairman proposed that the decision on article 1, paragraph 3, should be postponed. The question was reconsidered at the 14th meeting. It was then decided to delete paragraph 3 and to replace it by an addition to the eighth preambular paragraph.

26. At its 5th and 6th meetings, on 30 October 1991, the Working Group recast and adopted articles 4 to 8. The discussion on article 3 was postponed until a later meeting, as a participant had proposed an addition, the content of which also hinged on the future discussions on article 14; article 3 was finally adopted at the 14th meeting.

27. One delegation indicated that according to its interpretation, in the declaration as a whole, the expression "perpetrators of acts of enforced disappearances" meant persons having participated in acts constituting enforced disappearances in the sense of article 4 of the present declaration. The Working Group took note of this.

28. With regard to article 8, the representative of Japan stated it would be difficult for his country to determine whether, in a particular country, a person would "be in danger of enforced or involuntary disappearance". Accordingly, the Japanese Government was of the opinion that this article should be considered as a statement of principle rather than a provision to be implemented in practice.

29. At its 7th and 8th meetings, on 31 October 1991, the Working Group considered, revised and adopted articles 9 to 12.

30. The representative of Japan stated, with regard to the provisions of article 10, that according to Japanese law, only persons involved in criminal proceedings had to be brought before a judicial authority.

31. The representative of Austria commented that his delegation interpreted the relevant provisions of article 10 as meaning that it was for the persons who were deprived of their liberty to decide who should be the recipients of any information referred to in this article.

32. The representative of the People's Republic of China made a statement in order to explain that in his Government's interpretation, the definition of the expression "persons having a legitimate interest" must be in accordance with national laws and regulations of the States concerned.

33. From its 9th to its 18th meeting, on 1 November and 4 to 8 November 1991, the Working Group considered, revised and adopted articles 13 to 22.

34. At its 9th and 10th meetings, the Group considered article 14. A proposal for a revised text was endorsed by the participants, subject to difficulties encountered by three delegations. The Chairman-Rapporteur conducted informal consultations which led to a proposal read out by the Chair. This proposal was accepted by the Working Group on 1 November.

35. At the 14th meeting, article 15 concerning extradition was deleted since a number of delegations considered that article 14 contained appropriate references to extradition. The following articles were renumbered accordingly.

36. At its 11th meeting, on 4 November, the Group redrafted article 16, paragraph 2, and decided that it should become article 4, paragraph 2. It considered article 17 and adopted a proposal for a new text, including the addition of a new paragraph 2.

37. Article 18 gave rise to a discussion at the 11th meeting. In the interests of clarity and in order to take account of the complexity of the question and the diversity of legal systems, the Working Group decided to divide the article into three paragraphs which were then adopted. With regard to the statutes of limitation on the prosecution and punishment of offences, as established in this article, the Indian delegation stated that these provisions might give rise to difficulties for its national law. The Japanese delegation stated, when article 18, paragraph 1, was being adopted, that limitation was a principle of criminal law in Japan; it went on to say that it interpreted the paragraph as meaning that the victim of a disappearance was under the control of the perpetrators.

38. In its 15th to its 18th meetings, on 6, 7 and 8 November 1991, the Working Group concluded the second reading of the draft in its entirety. It decided to amend the title and to call it "Declaration on the protection of all persons from enforced disappearance", which it considered to be sufficient and appropriate. The relevant drafting changes were made to the text as a whole. At its 18th meeting, the Group also adopted the text of the draft declaration as a whole. The representative of Turkey recalled his reservations in respect of the declaration, in so far as it did not allude to the activities of terrorist groups.

39. The Working Group also invited the Secretariat to undertake, prior to the adoption of the report, a technical examination of the entire text. The Secretariat carried out this task.

40. At its 19th meeting, on 8 November, the Working Group heard the Chairman-Rapporteur present the content and structure of its report to the forty-eighth session of the Commission on Human Rights. The Under-Secretary-General for Human Rights, Mr. Jan Martenson, made a closing statement.

41. The text of the final draft declaration, as adopted by consensus by the Working Group, appears in the annex to this report.

42. At its 20th meeting, on 29 January 1992, the Working Group adopted the report.

43. The Working Group considers that, having submitted the said report, it has discharged the mandate assigned to it in Commission resolution 1991/41 of 5 March 1991. It wishes to draw the attention of the members of the Commission to the fact that the text of the draft declaration appearing in the annex is the outcome of a thorough and painstaking discussion. At all stages of this discussion, the participants made every effort to ensure that the terms selected took into account all legal systems. The Working Group is confident that the text as a whole, if finally approved by the international community, will be an effective contribution to the protection of persons from enforced disappearances throughout the world; the text should, above all, answer the expectations of victims and those close to them. With this hope and conviction which have guided it throughout its work, the Group submits the text attached at annex to the Commission and respectfully invites it to transmit it, with its own recommendation, through the Economic and Social Council, to the General Assembly for adoption.

ANNEX

DECLARATION ON THE PROTECTION OF ALL PERSONS
FROM ENFORCED DISAPPEARANCE

The General Assembly,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations and other international instruments, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind the obligation of States under the Charter of the United Nations, in particular, Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Deeply concerned that in many countries, often in a persistent manner, enforced disappearances occur, in the sense that persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, thereby placing such persons outside the protection of the law,

Considering that enforced disappearance undermines the deepest values of any society committed to respect for the rule of law, human rights and fundamental freedoms, and that the systematic practice of such acts is of the nature of a crime against humanity,

Recalling resolution 33/173 of 20 December 1978, by which the General Assembly expressed concern about the reports from various parts of the world relating to enforced or involuntary disappearances, as well as about the anguish and sorrow caused by these disappearances, and called upon Governments to hold law enforcement and security forces legally responsible for excesses which might lead to enforced or involuntary disappearances of persons,

Recalling also the protection afforded to victims of armed conflicts by the Geneva Conventions of 12 August 1949 and the Additional Protocols of 1977,

Having regard in particular to the relevant articles of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights which protect the right to life, the right to liberty and security of the person, the right not to be subjected to torture and the right to recognition as a person before the law,

Having regard further to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which provides that States parties shall take effective measures to prevent and punish acts of torture,

Bearing in mind the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and the Standard Minimum Rules for the Treatment of Prisoners,

Affirming that, in order to prevent enforced disappearances, it is necessary to ensure strict compliance with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, contained in its resolution 43/173 of 9 December 1988, and with the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, contained in Economic and Social Council resolution 1989/65 of 24 May 1989 and endorsed by General Assembly resolution 44/162 of 15 December 1989,

Bearing in mind that, while the acts which comprise enforced disappearance constitute a violation of the prohibitions found in the aforementioned international instruments, it is none the less important to devise an instrument which characterizes all acts of enforced disappearance of persons as very serious offences setting forth standards designed to punish and prevent their commission,

Proclaims the present Declaration on the Protection of All Persons from Enforced Disappearance, as a body of principles for all States,

Urges that all efforts be made so that this Declaration becomes generally known and respected.

Article 1

1. Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and reaffirmed and developed in international instruments in this field.

2. Such act of enforced disappearance places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life.

Article 2

1. No State shall practise, permit or tolerate enforced disappearances.

2. States shall act at the national and regional levels and in cooperation with the United Nations to contribute by all means to the prevention and eradication of enforced disappearance.

Article 3

Each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction.

Article 4

1. All acts of enforced disappearance shall be offences under the criminal law punishable by appropriate penalties which shall take into account their extreme seriousness.

2. Mitigating circumstances may be established in national legislation for persons who, having participated in enforced disappearances, are instrumental in bringing the victims forward alive or in providing voluntarily information which would contribute to clarify cases of enforced disappearance.

Article 5

In addition to such criminal penalties as are applicable, enforced disappearances render their perpetrators and the State or State authorities which organize, acquiesce in or tolerate such disappearances liable at civil law, without prejudice to the international responsibility of the State concerned in accordance with the principles of international law.

Article 6

1. No order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance. Any person receiving such an order or instruction shall have the right and duty not to obey it.

2. Each State shall ensure that orders or instructions directing, authorizing or encouraging any enforced disappearance are prohibited.

3. Training of law enforcement officials shall emphasize the above provisions.

Article 7

No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.

Article 8

1. No State shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds to believe that he would be in danger of enforced disappearance.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 9

1. The right to a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carrying out the deprivation of liberty, is required to prevent enforced disappearances under all circumstances, including those referred to in article 7.

2. In such proceedings, competent national authorities shall have access to all places holding persons deprived of their liberty and to each part thereof, as well as to any place in which there are grounds to believe that such persons may be found.

3. Any other competent authority entitled under law of the State or by any international legal instruments to which a State is a party may also have access to such places.

Article 10

1. Any person deprived of liberty shall be held in an officially recognized place of detention and, in conformity with national law, be brought before a judicial authority promptly after detention.

2. Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned.

3. An official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention. Additionally, each State shall take steps to maintain similar centralized registers. The information contained in these registers shall be made available to the persons mentioned in the paragraph above, to any judicial or other competent and independent national authority as well as to any other competent authority entitled under the law of the State concerned or any international legal instrument to which a State concerned is a party, seeking to trace the whereabouts of a detained person.

Article 11

All persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability fully to exercise their rights are assured.

Article 12

1. Each State shall establish rules under its national law indicating those officials authorized to order deprivation of liberty, establishing the conditions under which such orders may be given, and stipulating penalties for officials who, without legal justification, refuse to provide information on any detention.

2. Each State shall likewise ensure strict supervision, including a clear chain of command, of all law enforcement officials responsible for apprehensions, arrests, detentions, custody, transfers and imprisonment, and of other officials authorized by law to use force and firearms.

Article 13

1. Each State shall ensure that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority. Whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation.

2. Each State shall ensure that the competent authority shall have the necessary powers and resources to conduct the investigation effectively, including powers to compel attendance of witnesses and production of relevant documents and to make immediate on-site visits.

3. Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal.

4. The findings of such an investigation shall be made available upon request to all persons concerned, unless doing so would jeopardize an ongoing criminal investigation.

5. Steps shall be taken to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or the investigation procedure is appropriately punished.

6. An investigation, in accordance with the procedures described above, should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified.

Article 14

Any person alleged to have perpetrated an act of enforced disappearance in a particular State shall, when the facts disclosed by an official investigation so warrant, be brought before the competent civil authorities of that State for the purpose of prosecution and trial unless he has been

extradited to another State wishing to exercise jurisdiction in accordance with the relevant international agreements in force. All States should take any lawful and appropriate action available to them to bring all persons presumed responsible for an act of enforced disappearance, found to be within their jurisdiction or under their control, to justice.

Article 15

The fact that there are grounds to believe that a person has participated in acts of an extremely serious nature such as those referred to in article 4.1, regardless of the motives, shall be taken into account when the competent authorities of the State decide whether or not to grant asylum.

Article 16

1. Persons alleged to have committed any of the acts referred to in article 4.1 shall be suspended from any official duties during the investigation referred to in article 13.

2. They shall be tried only by the competent ordinary courts in each State, and not by any other special tribunal, in particular military courts.

3. No privileges, immunities or special exemptions shall be admitted in such trials, without prejudice to the provisions contained in the Vienna Convention on Diplomatic Relations.

4. The persons presumed responsible for such acts shall be guaranteed fair treatment in accordance with the relevant provisions of the Universal Declaration of Human Rights and other relevant international agreements in force at all stages of the investigation and eventual prosecution and trial.

Article 17

1. Acts constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified.

2. When the remedies provided for in article 2 of the International Covenant on Civil and Political Rights are no longer effective, the statute of limitations relating to acts of enforced disappearance shall be suspended until these remedies are re-established.

3. Statutes of limitations, where they exist, relating to acts of enforced disappearance shall be substantial and commensurate with the extreme seriousness of the offence.

Article 18

1. Persons who have, or are alleged to have, committed offences referred to in article 4.1 shall not benefit from any special amnesty law or similar measures that might have the effect of exempting them from any criminal proceedings or sanction.

2. In the exercise of the right of pardon, the extreme seriousness of acts of enforced disappearance shall be taken into account.

Article 19

The victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependants shall also be entitled to compensation.

Article 20

1. States shall prevent and suppress the abduction of children of parents subjected to enforced disappearance and of children born during their mother's enforced disappearance, and shall devote their efforts to the search for, and identification of, such children and to the restitution of the children to their families of origin.

2. Considering the need to protect the best interests of children referred to in the preceding paragraph, there shall be an opportunity, in States which recognize a system of adoption, for a review of the adoption of such children and, in particular, for annulment of any adoption wh ch originated in enforced disappearance. Such adoption should, however, continue to be in force if consent is given, at the time of the review mentioned above, by the child's closest relatives.

3. The abduction of children of parents subjected to enforced disappearance or of children born during their mother's enforced disappearance, and the act of altering or suppressing documents attesting to their true identity, shall constitute an extremely serious offence, which shall be punished as such.

4. For these purposes, States shall, where appropriate, conclude bilateral and multilateral agreements.

Article 21

The provisions of the present Declaration are without prejudice to the provisions enunciated in the Universal Declaration of Human Rights or in any other international instrument, and shall not be construed as restricting or derogating from any of the provisions contained therein.